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PATENT COOPERATION TREATY

PCT/EP2003/014056



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 8411	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/014056	International filing date (day/month/year) 09 December 2003 (09.12.2003)	Priority date (day/month/year) 06 January 2003 (06.01.2003)
International Patent Classification (IPC) or national classification and IPC B29C 47/16		
Applicant WINDMÖLLER & HÖLSCHER KG		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 6 sheets, including this cover sheet.
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of _____ sheets.

- This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 13 July 2004 (13.07.2004)	Date of completion of this report 09 May 2005 (09.05.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages _____ 1-8 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____ 1-6 _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the drawings:
pages _____ 1/2-2/2 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:
- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig. _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2-6	YES
	Claims	1	NO
Inventive step (IS)	Claims	2-6	YES
	Claims	1	NO
Industrial applicability (IA)	Claims	1-6	YES
	Claims		NO

2. Citations and explanations

1. This report refers to the following documents:

D1: WO 02 24434 A (HIRATA HAJIME; NAKAI YASHUHIRO (JP); TERAOKA JIRO (JP); TORAY INDUSTRIES) 28 March 2002 (2002-03-28)

D2: EP-A-1 319 492 (TORAY INDUSTRIES) 18 June 2003 (2003-06-18).

2. With regard to the requirements of PCT Article 6, the following should be noted:

2.1 Independent claims 1 and 6 are not clear.

In claim 1 the expressions "predetermined period of time" and "normal operation" are vague and unclear and leave the reader uncertain as to the meaning of the technical features concerned. As a result, the definition of the subject matter of this claim is not clear (PCT Article 6). To redress this objection it seems appropriate to submit an amended claim using only precise terms.

2.2 In claims 1, 2, 5 and 6 reference is made to (MZ), (P) and (N), which do not appear in the drawings.

Consequently, the use of these references (MZ), (P) and (N) does not conform to the PCT Guidelines, Ch. III, 4.11.

2.3 Terms such as "substantially", "greater", "earlier", "optionally", "the more recent measured value or values" and "and/or" - cf. claims 1 to 6 - are relative terms that cannot be used to demarcate from the prior art - cf. PCT Guidelines, Ch. III, 4.5.

2.4 Product claim 6 does not meet the requirements of PCT Article 6 because the subject matter for which protection is sought is not clearly defined. The claim attempts to define the subject matter by the result to be attained, in this case with method features; but that only states the problem to be solved - cf. PCT Guidelines, Ch. III, 4.7. To rectify this defect it appears necessary to include in the claim the technical features required for achieving this result.

3. With regard to the requirements of PCT Article 33(2), taking into account the observations pertinent to Box VIII, the following should be noted. The points of unclarity are underlined as necessary.

Document D1 is considered to be the prior art closest to the subject matter of claim 1. D1 discloses a method of controlling the thickness of extruded film, comprising the following features:

- measurement of the thickness profile of just extruded film (1) by means of a thickness sensor (8) that is moved substantially transverse to the direction in which the extruded film (1) is

- delivered, along the surface thereof, and that records, per measurement cycle, a thickness profile of the film (1) at least over portions of the film (1), transverse to its direction of delivery;
- transmission of the measured values to a control unit (9);
 - storage, in a storage device, of the measured values upon which the thickness profiles are based;
 - provision of statistical values regarding film thickness by a computing device (9), with the computing device (9) taking into account measured values or information derived from measured values from a specific number of measurement cycles and optionally providing measured values from more recent and earlier measurement cycles with different weighting factors;
 - determination of deviations of statistical values for film thickness from a reference value;
 - generation of control instructions to means for influencing the film thickness, where in providing the statistical values the computing device (9) gives greater weight to the more recent measured value or values, relative to earlier measured values, during a predetermined period of time at the start of the extrusion process than during normal operation - cf. document D1, paragraph [0047], figures 3 and 4.

Therefore, the novelty of the subject matter of claim 1 (PCT Article 33(2)) has been anticipated.

4. Because independent claim 1 of the present application does not meet the requirement of PCT Article 33(2), it cannot be established in this report whether dependent claims 2-5 meet the

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criteria set in PCT Article 33(2) and (3), nor whether these additional features of these dependent claims 2-5 are linked by a technical relationship within the meaning of PCT Rule 13.2. Consequently, in this report an inventive step cannot be recognized.

5. Claim 1-6 relate to subject matter that meets the requirements for industrial applicability (PCT Article 33(4)).